

IN RE: PETITION FOR ZONING VARIANCE
SE/C Middleborough & Elk Roads
(Lot 28)
15th Election District
5th Councilmanic District
Evelyn H. Hutchinson
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-295-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a lot width of 50 feet in lieu of the required 55 feet and a side street setback of 10 feet in lieu of the required 25 feet as more particularly described in Petitioner's Exhibit 1.

The Petitioner, Evelyn Hutchinson, and Contract Purchasers, Raymond and Debbie Hiltz, appeared and testified. Also appearing and testifying on behalf of the Petition was David Hutchinson, son of Petitioner. There were no Protestants.

Testimony indicated that the subject property, known as 1823 Middleborough Road (Lot 28), consists of approximately 15,000 sq.ft. zoned D.R. 5.5, and is located at the corner of Middleborough and Elk Roads within the Chesapeake Bay Critical Areas. The lot is part of the subdivision known as Middleborough which was originally recorded with 50-foot wide lots. Mrs. Hutchinson testified she and her husband purchased the subject property in 1956. Testimony indicated Petitioner owns no adjoining lots to meet the requirements of the Baltimore County Zoning Regulations (B.C.Z.R.) as to lot width. The Contract Purchasers are desirous of constructing a home on the subject property, however, due to the width of the lot and the fact that the property abuts Elk Road, the requested variances are necessary. Elk Road is a slug and gravel road which dead ends at the end of Petitioner's property. Testimony indicated Elk Road re-

ceives very little traffic. Petitioner argued the granting of the variance will not result in any detriment to the public health, safety or general welfare.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of

the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 1st day of May, 1989 that the Petition for Zoning Variance to permit a lot width of 50 feet in lieu of the required 55 feet and a side street setback of 10 feet in lieu of the required 25

feet, in accordance with Petitioner's Exhibit 1, as and hereby ordered, subject, however, to the following restrictions which are hereby imposed upon the relief granted herein:

- 1) The Petitioner may apply for her building permit and be granted same upon receipt of this Order. However, Petitioner is hereby advised that if she fails to obtain this time is at her own risk and that she shall be responsible for whatever happens from this Order being issued.
- 2) For whatever reason, this Order is rescinded, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and,

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated November 25, 1988, attached hereto and made a part hereof.

ANN:bj
By: *[Signature]*
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: November 25, 1988

FROM: Mr. Robert W. Sheesley

SUBJECT: Hutchinson Property
Petition for Zoning Variance - Item #181

Subject property is located at the corner of Middleborough Road and Elk Road. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant has requested a zoning variance to permit a lot width of 50 feet and a side street setback of 10 feet in lieu of the required 55 feet and 25 feet, respectively.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

COMAR 14.15.10.01 G

The proposed development will comply with Critical Area law provided that the zoning petition is conditioned with the following requirements:

1. Two major deciduous trees or four conifer trees shall be planted and maintained on the lot. A combination of these two tree types is acceptable provided that 2,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.

Memo to Mr. J. Robert Haines
November 25, 1988
Page 2

2. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.
3. Rooftop runoff shall be directed through down-spouts and into a dry well of approved design to encourage maximum infiltration (see attached dry well design).

Upon compliance with the above requirements, this project will be approved. Please contact Mr. David C. Flowers at 887-3950 if you require additional information.

[Signature]
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:tjg

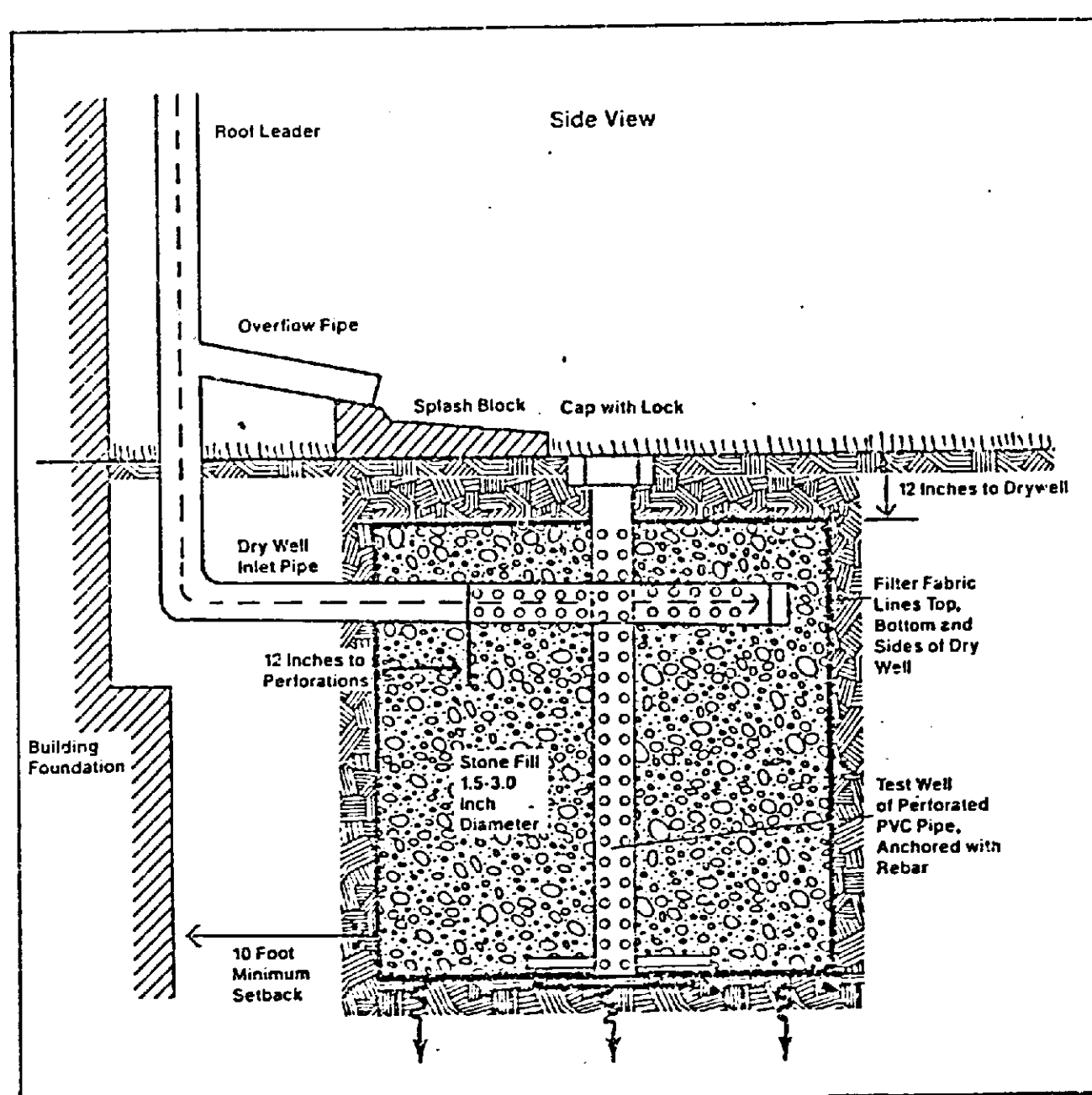
Attachment

cc: The Honorable Ronald B. Hickernell

DESIGN 4:

Dry Well Design. (Figure 5.8). Dry wells are a basic trench variation which are designed exclusively to accept rooftop runoff from residential or commercial buildings (Figure 5.8). Additional guidance on dry well design is available from Md WRA (1984). Basically, the leader from the roof is extended into an underground trench, which is situated a minimum of ten feet away from the building foundation. Rooftop gutter screens are needed to trap any particles, leaves and other debris, and must be regularly cleared.

Figure 5.8: Dry Well Design (adapted from Md WRA, 1984)



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

May 1, 1989

Ms. Evelyn Hutchinson
331 Lorraine Avenue
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE
SE/C Middleborough and Elk Roads (Lot 28)
15th Election District - 5th Councilmanic District
Evelyn H. Hutchinson - Petitioner
Case No. 89-295-A

Dear Mr. Hutchinson:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

[Signature]
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bj

cc: Mr. & Mrs. Raymond L. Hiltz
224 Antietam Road, Baltimore, Md. 21221

People's Counsel

file

Chesapeake Bay Critical Areas Commission
Tawes State Office Building, D-4
Annapolis, Md. 21404

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-295-A

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1902.3.3.B. to 1902.3.3.A. for a lot 50' wide and 10' deep, side set back of 10' in lieu for the required 55' and 25' respectively.

1. VARIANCE TO BE GRANTED ON A LOT 50' IN WIDTH INSTEAD OF REQUIRED 55' WIDTH.
2. VARIANCE TO BE GRANTED ON A LOT 10' IN DEPTH INSTEAD OF REQUIRED 25' DEPTH.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Contract Purchaser: Raymond L. Hiltz, et ux
Legal Owner(s): Evelyn H. Hutchinson
Address: 331 Lorraine Avenue, Baltimore, Md. 21204

Signature: [Signature]
City and State: Baltimore, Md. 21204

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City and State: Baltimore, Md. 21204

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City and State: Baltimore, Md. 21204

Signature: [Signature]
City and State: Baltimore, Md. 21204

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 16, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 12, 1989.

THE JEFFERSONIAN,
S. Zeke Olson
Publisher

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price \$39.40

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Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204
494-5253

J. Robert Haines
Zoning Commissioner

Ms. Evelyn H. Hutchinson
331 Lorraine Avenue
Baltimore, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
CASE NUMBER: 89-295-A
SEC Middleborough and Elk Roads
Lot #28

15th Election District - 5th Councilmanic
Legal Owner(s): Evelyn H. Hutchinson
Contract Purchaser(s): Raymond L. Hiltz, et ux
HEARING SCHEDULED: FRIDAY, JANUARY 27, 1989 at 2:00 p.m.

Dear Ms. Hutchinson:

Please be advised that \$22.28 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE WORK SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 5/1/89 ACCOUNT: PO 08952-000
AMOUNT: \$22.28
RECEIVED: Raymond L. Hiltz, et ux
FOR: PIA 1/27/89 hearing 89-295-A

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FOR: PIA 1/27/89 hearing 89-295-A

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FOR: PIA 1/27/89 hearing 89-295-A

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FOR: PIA 1/27/89 hearing 89-295-A

RE: PETITION FOR VARIANCE
SE Corner Middleborough & Elk
Rds. (Lot #28), 15th Election
Dist., 5th Councilmanic Dist.
EVELYN H. HUTCHINSON,
Petitioner
Case No. 89-295-A

BEFORE THE ZONING COMMISSIONER
OF BALTIMORE COUNTY

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
887-2188

I HEREBY CERTIFY that on this 24th day of January, 1989, a copy of the foregoing Entry of Appearance was mailed to Evelyn H. Hutchinson, 331 Lorraine Ave., Baltimore, MD 21221, Petitioner; and Raymond L. & Deborah A. Hiltz, 224 Antietam Rd., Baltimore, MD 21221, Contract Purchasers.

Peter Max Zimmerman

Peter Max Zimmerman

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Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building
Towson, Maryland 21204
(800) 887-5554

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

ZAC Meeting of November 9, 1988
Item Nos. 172, 175, 176, 177, 178, 179, 180, 181, and 182.

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for item numbers 172, 175, 176, 177, 178, 179, 180, 181, and 182.

Michael S. Flannery
Traffic Engineering Associate II

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Baltimore County
Zoning Commission
Office of Planning & Zoning
Towson, Maryland 21204
494-5253

J. Robert Haines
Zoning Commissioner

December 23, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

PETITION FOR ZONING VARIANCE
CASE NUMBER: 89-295-A
SEC Middleborough and Elk Roads
Lot #28

15th Election District - 5th Councilmanic
Legal Owner(s): Evelyn H. Hutchinson
Contract Purchaser(s): Raymond L. Hiltz, et ux
HEARING SCHEDULED: FRIDAY, JANUARY 27, 1989 at 2:00 p.m.

Variance to permit a lot width of 50 ft. and a side street setback of 10 ft. in lieu of the required 55 ft. and 25 ft. respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
Zoning Commissioner of Baltimore County

cc: Ms. Evelyn H. Hutchinson
Mr. & Mrs. Raymond Hiltz
Chesapeake Bay Critical Area Commission
File

89-295-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 10th day of November, 1988.

J. Robert Haines
Zoning Commissioner

Evelyn H. Hutchinson, et ux
Contract Purchaser(s)

Raymond L. Hiltz, et ux
Contract Purchaser(s)

Raymond L. Hiltz, et ux
Contract Purchaser(s)

Raymond L. Hiltz, et ux
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Contract Purchaser(s)

Raymond L. Hiltz, et ux
Contract Purchaser(s)

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the herein Petition for Variance(s) to permit

BEGINNING ON THE SOUTH SIDE OF MIDDLEBOROUGH RD.

Beginning for the same at the corner formed by the intersection of the southernmost side of Middleborough Road and the easternmost side of Elk Road three hundred feet; thence southerly parallel with Elk Road three hundred feet; thence westerly parallel with Middleborough Road fifty feet to the east side of Elk Road three hundred feet to the place of beginning. Being the westernmost fifty feet of Lot No. 268 of Middleborough as shown upon a plat filed among the Land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 191.